

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,  
Plaintiff

V.

ANTONIO PENA-ARGUELLES,  
Defendant

§  
§  
§  
§  
§  
§  
§

CRIMINAL NO.—SA 12-CR-0102-OG

**JOINT MOTION FOR ORDER ADOPTING STIPULATION  
AND SETTLEMENT AGREEMENT AND HOLD HARMLESS  
AGREEMENT REGARDING THREE SUBJECT REAL PROPERTIES**

Come now Petitioner, United States of America, by and through the undersigned Assistant United States Attorney, and Petitioner, Armandina Rodriguez Pena, by and through her attorneys of record, Kathleen A. Hurren and Cathleen Lockhart, as Parties in the above-styled and numbered cause, and make this Joint Motion for Order Adopting Stipulation and Settlement Agreement and Hold Harmless Agreement with regard to the following Subject Real Properties which are located and situated at:

*311 Joshua Way, San Antonio, Bexar County, Texas 78258*, with all buildings, appurtenances, and improvements thereon, and being more particularly described as follows: Lot 18, Block 5, New City Block 19217, CHAMPIONS RIDGE SUBDIVISION, UNIT 3A, PLANNED UNIT DEVELOPMENT, an addition to the City of San Antonio, Bexar County, Texas, according to map or plat thereof, recorded in Volume 9551, Page 101, Deed and Plat Records, Bexar County, Texas;

*104 O'Meara Circle, Laredo, Webb County, Texas 78045*, with all buildings, appurtenances, and improvements thereon, and being more particularly described as follows: Lot 2, Block 2, Turnberry Subdivision, a Subdivision Situated in the City of Laredo, as per plat recorded in Volume 19, Page 69, Webb County Plat Records, Webb County, Texas; and

*4019 Linares Circle, Laredo, Webb County, Texas 78045*, with all buildings, appurtenances, and improvements thereon, and being more particularly described as follows: The Surface Estate only in and to Lot Ten (10), Block One (1), Winfield Subdivision, Phase 8, Situated in the City of Laredo, Webb County, Texas according to the plat thereof recorded in Volume 25, Pages 137-138, Plat Records of Webb County, Texas,

hereinafter the Three Subject Real Properties, and in support thereof would show the Court the following:

**I.**

On March 31, 2014, Defendant Antonio Pena-Arguelles entered a written Plea Agreement (Doc. 55) to Count One of a Superseding Information (Doc. 53) returned against him, charging him with violations of Title 18 U.S.C. ' 1956(h). The Superseding Information included a Notice of Demand for Forfeiture pursuant to Title 18 U.S.C. ' 982(a)(1) in which the United States gave notice of its intent to forfeit certain real and personal properties, including the aforementioned Three Subject Real Properties.

As part of his guilty plea, Defendant Antonio Pena-Arguelles agreed to immediately and voluntarily forfeit all his right, title, and interest in the Three Subject Real Properties for being in violation of Title 18 U.S.C. ' 1956(h).

**II.**

On April 9, 2014, this Court entered a Preliminary Order of Forfeiture (Doc. 63) against certain real and personal properties, including the aforementioned Three Subject Real Properties, and pursuant to said order, the notice of forfeiture was posted on an official government internet website ([www.forfeiture.gov](http://www.forfeiture.gov)), for at least thirty consecutive days, beginning on April 16, 2014 and ending on May 15, 2014, as required by Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. The Declaration of Publication (Doc. 73) was filed on May 19, 2014.

**III.**

In addition to the publication of public notice, Armandina Rodriguez Pena, ex-wife of Defendant Antonio Pena-Arguelles, was personally served with notice of this forfeiture action on

June 11, 2014. On May 9, 2014, Armandina Rodriguez Pena filed an original Answer of Armandina Rodriguez Pena and Notice of third Party Interest (Doc. 70). On May 23, 2014, Armandina Rodriguez Pena filed a Supplemental Answer of Armandina Rodriguez Pena and Petition for Adjudication of Interest in Property by Armandina Rodriguez Pena. On June 16, 2014, Armandina Rodriguez Pena filed a Second Supplemental Answer of Armandina Rodriguez Pena and Supplemental Petition for Adjudication of Interest in Property (Doc. 76), each asserting an interest in the Three Subject Real Properties, for the reasons set out in such pleadings; however, Armandina Rodriguez Pena's claims against the subject Joshua Way Property arose from her having a judicial attachment lien against that property which was foreclosed by virtue of her obtaining a Judgment against Defendant Antonio Pena-Arguelles.

On May 12, 2014, the Bexar County, Texas Taxing Authorities filed a Petition for Adjudication of Interest in Property Located at 311 Joshua Way, San Antonio, Bexar County, Texas (Doc. 71).

No other claims or answers were filed in this cause as to the Three Subject Real Properties and the time for filing has expired.

#### IV.

In the interest of justice, judicial economy, and other consideration, the United States of America and Petitioner Armandina Rodriguez Pena have reached a settlement agreement regarding the disposition of the Three Subject Real Properties and have executed a Stipulation and Settlement Agreement and Hold Harmless Agreement (attached hereto and fully incorporated herein by reference as Appendix A).

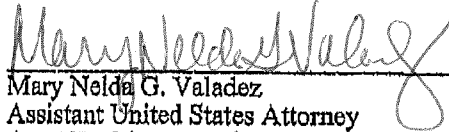
WHEREFORE, premises considered, the United States of America and Petitioner Armandina Rodriguez Pena hereto jointly move this Honorable Court to enter an Order which approves and

adopts the terms and provisions of the attached Stipulation and Settlement Agreement and Hold Harmless Agreement, as heretofore mentioned, regarding the disposition of the Three Subject Real Properties, and which provides for such other and further relief as this Court deems just and proper.

Respectfully submitted,

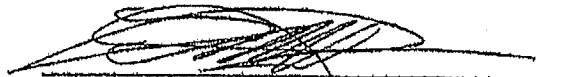
ROBERT PITMAN  
United States Attorney

By:



Mary Nelda G. Valadez  
Assistant United States Attorney  
Asset Forfeiture Section  
601 N.W. Loop 410, Suite 600  
San Antonio, Texas 78216  
Tel: (210) 384-7040  
Fax: (210) 384-7045  
Texas Bar No. 20421844  
Attorneys for the United States of America

By:



Kathleen A. Hurren  
Attorney at Law  
2008 NW Military Highway  
San Antonio, Texas 78213  
Attorney for Petitioner Armandina Rodriguez Pena

By:



Cathleen Lockhart  
Lockhart Law Firm, PC  
310 S. St. Mary's Street, Suite 1860-1900  
San Antonio, Texas 78205  
Attorney for Petitioner Armandina Rodriguez Pena

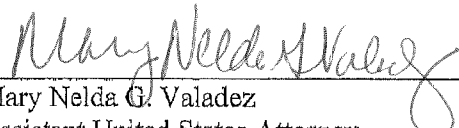
**CERTIFICATE OF SERVICE**

I hereby certify that on August 5, 2014, the foregoing instrument was electronically filed with the Clerk of the Court using the CM/ECF System, which will transmit notification of such filing to CM/ECF participant:

Kathleen A. Hurren  
Attorney at Law  
2008 NW Military Highway  
San Antonio, Texas 78213

Cathleen Lockhart  
Lockhart Law Firm, PC  
310 S. St. Mary's Street, Suite 1860  
San Antonio, Texas 78205  
Attorneys for Petitioner Armandina Rodriguez Pena

Lori Gruver  
Linebarger, Goggan, Blair and Sampson, LLP  
P.O. Box 17428  
Austin, Texas 78760  
Attorney for the Bexar County, Texas Taxing Authorities

  
\_\_\_\_\_  
Mary Nelda G. Valadez  
Assistant United States Attorney



4019 Linares Circle, Laredo, Webb County, Texas 78045, with all buildings, appurtenances, and improvements thereon, and being more particularly described as follows: The Surface Estate only in and to Lot Ten (10), Block One (1), Winfield Subdivision, Phase 8, Situated in the City of Laredo, Webb County, Texas according to the plat thereof recorded in Volume 25, Pages 137-138, Plat Records of Webb County, Texas,

hereinafter the Three Subject Real Properties, and have therefore agreed to the following terms, conditions, and provisions:

**HOLD HARMLESS AGREEMENT AND STIPULATIONS OF THE PARTIES**

1. That Petitioner Armandina Rodriguez Pena, on behalf of herself, her heirs, executors, administrators, or assigns, does hereby release and forever discharge the United States of America; the Drug Enforcement Administration; the United States Marshals Service; and/or its individual agents; servants and/or employees from any and all claims for all damages resulting, or to result from the seizure, retention, custody and/or criminal forfeiture of the Three Subject Real Properties; and

2. That Petitioner Armandina Rodriguez Pena waives any and all right to appeal the final order or judgment of the Court entered as part of this Stipulation and Settlement Agreement and Hold Harmless Agreement; and

3. That it is acknowledged by the parties to this Agreement that this Agreement is executed in compromise and settlement of disputed claims and is not to be construed as an admission of any wrongdoing whatsoever by either party, nor by the United States of America; the Drug Enforcement Administration; the United States Marshals Service; and/or its individual agents; servants and/or employees.

**STIPULATION AND SETTLEMENT AGREEMENT**

That in consideration of the above, it is further agreed and stipulated by and between the parties as follows:

1. That Petitioner Armandina Rodriguez Pena agrees not to contest the criminal forfeiture of the Subject Real Property which is located and situated at:

*311 Joshua Way, San Antonio, Bexar County, Texas 78258*, with all buildings, appurtenances, and improvements thereon, and being more particularly described as follows: Lot 18, Block 5, New City Block 19217, CHAMPIONS RIDGE SUBDIVISION, UNIT 3A, PLANNED UNIT DEVELOPMENT, an addition to the City of San Antonio, Bexar County, Texas, according to map or plat thereof, recorded in Volume 9551, Page 101, Deed and Plat Records, Bexar County, Texas,

hereinafter the Subject Joshua Way Property; and

2. That Petitioner Armandina Rodriguez Pena agrees to forthwith execute a Withdrawal of Claim in the instant criminal case regarding Subject Joshua Way Property; and

3. That upon Petitioner Armandina Rodriguez Pena executing a Withdrawal of Claim in the instant criminal case regarding Subject Joshua Way Property, the United States of America agrees to forthwith record Removals of Lis Pendens against the following Real Properties which are located and situated at:

*104 O'Meara Circle, Laredo, Webb County, Texas 78045*, with all buildings, appurtenances, and improvements thereon, and being more particularly described as follows: Lot 2, Block 2, Turnberry Subdivision, a Subdivision Situated in the City of Laredo, as per plat recorded in Volume 19, Page 69, Webb County Plat Records, Webb County, Texas; and

*4019 Linares Circle, Laredo, Webb County, Texas 78045*, with all buildings, appurtenances, and improvements thereon, and being more particularly described as follows: The Surface Estate only in and to Lot Ten (10), Block One (1), Winfield Subdivision, Phase 8, Situated in the City of Laredo, Webb County, Texas according to the plat thereof recorded in Volume 25, Pages 137-138, Plat Records of Webb County, Texas,

hereinafter the Subject O'Meara Circle and Linares Circle Properties; and

4. That upon Petitioner Armandina Rodriguez Pena filing a Withdrawal of Claim in the instant criminal case regarding Subject Joshua Way Property, the United States of America further agrees to release any and all claim and interest in and to and against the Subject O'Meara Circle and



Linares Circle Properties to Petitioner Armandina Rodriguez Pena, and that Petitioner Armandina Rodriguez Pena, having been in possession and control of the Subject O'Meara Circle and Linares Circle Properties prior to the March 31, 2014 Plea Agreement referenced in the Joint Motion, agrees to accept the Subject O'Meara Circle and Linares Circle Properties on a "where is" and "as is" basis by the United States Marshals Service, and/or its designated custodian, upon approval of this Stipulation and Settlement Agreement and Hold Harmless Agreement by the Court, and upon completion by Petitioner Armandina Rodriguez Pena of any documents that the United States Marshals Service may reasonably require to effect the release of the Subject O'Meara Circle and Linares Circle Properties to Petitioner Armandina Rodriguez Pena; and

5. That the Subject Joshua Way Property shall be forfeited to the United States of America and disposed of by the United States Marshals Service, and/or its designated custodian, in accordance with law, and that to fully effect such forfeiture, the Defendant Antonio-Pena Arguelles, will be denied further possession and access to the Subject Joshua Way Property within a reasonable time after entry of an Order granting the Joint Motion of these Parties; and

6. That Petitioner Armandina Rodriguez Pena understands and agrees that by virtue of this Agreement, she retains title to the Subject O'Meara Circle and Linares Circle Properties, and shall be liable for the payment of any and all ad valorem taxes and fees that may be due and owing against the Subject O'Meara Circle and Linares Circle Properties; and

7. That any and all costs of litigation of this action incurred by each Party, including but not limited to attorney's fees, shall be borne by each Party respectively; and

8. That the Parties to this Agreement shall perform any and all acts, execute any and all

documents, and perform any actions reasonably necessary in order to carry out the provisions of this Agreement; and

9. That if for any reason this Agreement is not fulfilled by Armandina Rodriguez Pena, the United States of America shall have the option of re-instituting this action, and Petitioner Armandina Rodriguez Pena agrees to waive any claims that she may have to the Subject Joshua Way Property; and

10. That this Court shall retain jurisdiction in this cause of action for the purpose of enforcing the terms, provisions, and conditions of this Agreement.

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS ON THE DATES INDICATED BELOW:

8/5/14  
Date

By: Mary Nelda G. Valadez  
Mary Nelda G. Valadez  
Assistant United States Attorney

8/5/14  
Date

By: Kathleen A. Hurren  
Kathleen A. Hurren  
Attorney for Petitioner  
Armandina Rodriguez Pena

8/5/14  
Date

By: Cathleen Lockhart  
Cathleen Lockhart  
Attorney for Petitioner  
Armandina Rodriguez Pena

8/5/14  
Date

By: Armandina Rodriguez Pena  
Armandina Rodriguez Pena  
Petitioner

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,  
Plaintiff

V.

ANTONIO PENA-ARGUELLES,  
Defendant.

CRIMINAL NO.—SA 12-CR-0102-OG

**ORDER ADOPTING STIPULATION AND SETTLEMENT  
AGREEMENT REGARDING THREE SUBJECT REAL PROPERTIES**

Came on to be considered this date the Joint Motion for Order Adopting Stipulation and Settlement Agreement and Hold Harmless Agreement, and the Court, having reviewed the record and being otherwise duly and fully apprised in all the premises, finds said Joint Motion is meritorious and should be, and hereby is, in all things GRANTED. IT IS THEREFORE

ORDERED that the Stipulation and Settlement Agreement and Hold Harmless Agreement executed by and between the United States of America and Petitioner Armandina Rodriguez Pena be, and hereby is, approved and adopted and is incorporated herein as part of this Order; and IT IS FURTHER

ORDERED that Petitioner Armandina Rodriguez Pena shall not contest the criminal forfeiture of the Subject Real Property which is located and situated at:

311 Joshua Way, San Antonio, Bexar County, Texas 78258, with all buildings, appurtenances, and improvements thereon, and being more particularly described as follows: Lot 18, Block 5, New City Block 19217, CHAMPIONS RIDGE SUBDIVISION, UNIT 3A, PLANNED UNIT DEVELOPMENT, an addition to the City of San Antonio, Bexar County, Texas, according to map or plat thereof, recorded in Volume 955I, Page 101, Deed and Plat Records, Bexar County, Texas,

hereinafter the Subject Joshua Way Property; and IT IS FURTHER,

ORDERED that Petitioner Armandina Rodriguez Pena shall forthwith execute a Withdrawal of Claim in the instant criminal case regarding Subject Joshua Way Property; and IT IS FURTHER

ORDERED that upon Petitioner Armandina Rodriguez Pena executing a Withdrawal of Claim in the instant criminal case regarding Subject Joshua Way Property, the United States of America shall forthwith record Removals of Lis Pendens against the following Real Properties which are located and situated at:

*104 O'Meara Circle, Laredo, Webb County, Texas 78045*, with all buildings, appurtenances, and improvements thereon, and being more particularly described as follows: Lot 2, Block 2, Turnberry Subdivision, a Subdivision Situated in the City of Laredo, as per plat recorded in Volume 19, Page 69, Webb County Plat Records, Webb County, Texas; and

*4019 Linares Circle, Laredo, Webb County, Texas 78045*, with all buildings, appurtenances, and improvements thereon, and being more particularly described as follows: The Surface Estate only in and to Lot Ten (10), Block One (1), Winfield Subdivision, Phase 8, Situated in the City of Laredo, Webb County, Texas according to the plat thereof recorded in Volume 25, Pages 137-138, Plat Records of Webb County, Texas,

hereinafter the Subject O'Meara Circle and Linares Circle Properties; and IT IS FURTHER

ORDERED that upon Petitioner Armandina Rodriguez Pena executing a Withdrawal of Claim in the instant criminal case regarding the Subject Joshua Way Property, the United States of America shall fully release any and all claim and interest in and to and against the Subject O'Meara Circle and Linares Circle Properties to Petitioner Armandina Rodriguez Pena, and that Petitioner Armandina Rodriguez Pena shall accept the Subject O'Meara Circle and Linares Circle Properties on a "where is" and "as is" basis by the United States Marshals Service, and/or its designated custodian, upon approval of this Stipulation and Settlement Agreement and Hold Harmless Agreement by the Court, and upon completion by Petitioner Armandina Rodriguez Pena of any

documents that the United States Marshals Service may reasonably require to effect the release of the Subject O'Meara Circle and Linares Circle Properties to Petitioner Armandina Rodriguez Pena; and IT IS FURTHER

ORDERED that the Subject Joshua Way Property shall be forfeited to the United States of America and disposed of by the United States Marshals Service, and/or its designated custodian, in accordance with law and that to fully effect such forfeiture, the Defendant Antonio-Pena Arguelles, will be denied further possession and access to the Subject Joshua Way Property within a reasonable time after entry of this Order; and IT IS FURTHER

ORDERED that Petitioner Armandina Rodriguez Pena shall be liable for the payment of any and all ad valorem taxes and fees that may be due and owing against the Subject O'Meara Circle and Linares Circle Properties; and IT IS FURTHER

ORDERED that any and all costs of litigation of this action incurred by each Party, including but not limited to attorney's fees, shall be borne by each Party respectively; and IT IS FURTHER

ORDERED that the Parties to this Agreement shall perform any and all acts, execute any and all documents, and perform any actions reasonably necessary in order to carry out the provisions of this Agreement; and IT IS FURTHER

ORDERED that if for any reason this Agreement is not fulfilled by Armandina Rodriguez Pena, the United States of America shall have the option of re-instituting this action, and Petitioner Armandina Rodriguez Pena shall waive any claims that she may have to the Subject Joshua Way Property; and IT IS FURTHER

ORDERED that this Court shall retain jurisdiction in this cause of action for the purpose of enforcing the terms, provisions, and conditions of this Agreement.

IT IS SO ORDERED.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
ORLANDO L. GARCIA  
UNITED STATES DISTRICT JUDGE